plaintiff is not entitled to the injunction. On the question of damages the court was evenly divided. *Loranger* v. *City of Flint*, 152 N. W. 251 (Mich.).

A riparian proprietor has a right to appropriate, from the stream on which he is situated, only as much water as is reasonably necessary for his own domestic uses. *Acquackanonk Water Co.* v. *Watson*, 29 N. J. Eq. 366; *Stockport* v. *Potter*, 3 H. & C. 300. See 3 KENT'S COMM., 12 ed., 440. The fact that the riparian proprietor on a non-navigable stream is a municipality does not make its inhabitants riparian owners. Consequently, the municipality may not take the water for the domestic use of its inhabitants without compensating lower riparian owners. *City of Emporia* v. *Soden*, 25 Kan. 588; *Stein* v. *Burden*, 24 Ala. 130; *Stock* v. *City of Hillsdale*, 155 Mich. 375, 119 N. W. 435. See GOULD, WATERS, § 245. And though the location of a municipality on a stream may increase the number of individual riparian proprietors, that does not give to the municipality the right to appropriate water for its non-riparian inhabitants. *City of Reading* v. *Althouse*, 93 Pa. St. 400; *Mannville Co.* v. *City of Worcester*, 138 Mass. 89; *City of New Whatcom* v. *Fairhaven Land Co.*, 24 Wash. 493, 64 Pac. 735. *Contra*, *Canton* v. *Shock Co.*, 66 Oh. St. 19, 63 N. E. 600; *Barre Water Co.* v. *Carnes*, 65 Vt. 626, 27 Atl. 609. Again, the navigability of the stream, which gives the public a right of way, does not alter riparian rights. *City of New Whatcom* v. *Fairhaven Land Co.*, *supra*; *Fulton Co.* v. *State*, 200 N. Y. 400, 94 N. E. 199; *Kaukauna Co.* v. *Green Bay Canal Co.*, 142 U. S. 254. *Contra*, *Minneapolis Mill Co.* v. *Board of St. Paul*, 56 Minn. 485, 58 N. W. 33. Nor does title to the bed of the stream increase the right to use of the water. *Sweet* v. *City of Syracuse*, 129 N. Y. 316, 29 N. E. 289; *Myers* v. *City of St. Louis*, 8 Mo. App. 266. See GOULD, WATERS, § 246. Consequently the appropriation of water for all its inhabitants is a taking of property for which the municipality must make compensation.

WILLS — CONSTRUCTION — EFFECT OF MAKING SAME PERSON SPECIAL AND RESIDUARY LEGATEE. — A legatee who was to receive a special bequest and also one-half of the residue, predeceased the testatrix. The will expressly directed that the residue should contain any lapsed bequests. *Held*, that the lapsed specific legacy became intestate property. *Dickinson* v. *Belden*, 268 Ill. 105, 108 N. E. 1011.

As a testator, by making a general residuary clause, shows an intent to bequeath all his property, it is a general rule that all the property owned by him at his death, and not specifically bequeathed, together with all lapsed legacies, shall fall into the residue. *Cambridge* v. *Rous*, 8 Ves. Jr. 12. See *English* v. *Cooper*, 183 Ill. 203, 208, 55 N. E. 687, 688. See 2 JARMAN, WILLS, 6 ed., 1046. Indeed this rule applies even if the legacy which has lapsed was described as an exception from the residue. *Evans* v. *Jones*, 2 Collyer 516. Since a lapsed residuary legacy cannot swell the residue, it necessarily becomes intestate property. *Ketchum* v. *Corse*, 65 Conn. 85, 31 Atl. 486. But a lapsed specific legacy to the residuary legatee does increase the residue and should come within the residuary bequest. *In re Fassig's Estate*, 82 N. Y. Misc. 234, 143 N. Y. Supp. 494. Since there is intestacy as to the deceased legatee's share of the residue, this does not involve taking property from him in one guise, to return it in another. Any other rule is contrary to the intent of the testator in making the residuary clause. Hence it is submitted that the principal case is wrong, though it is in accord with the trend of authority. See *Dorsey* v. *Dodson*, 203 Ill. 32, 67 N. E. 395; *Craighead* v. *Given*, 10 Serg. & R. (Pa.) 351. It the more clearly defeats the intent of the testatrix in the principal case, since the will expressly stated that lapsed legacies should fall into the residue.

WITNESSES — PRIVILEGED COMMUNICATIONS — ATTORNEY AND CLIENT — PRIVILEGE OF ATTORNEY NOT TO DISCLOSE CLIENT'S IDENTITY. — Certain

clients employed an attorney to represent them in matters connected with the investigation of election frauds, and in addition to act as counsel for three men who had been indicted for such frauds. Later before the grand jury, the attorney refused to disclose the identity of the clients who employed him to represent the three indicted men, asserting his privilege. He was sentenced for contempt of court and now applies for a writ of *habeas corpus* for his discharge. *Held*, that the petitioner be discharged. *Ex parte McDonough*, 149 Pac. 566 (Cal.).

That the privilege of an attorney not to disclose communications of his client extends only to communications made in confidence as a part of the purpose of the client to obtain legal advice, is well established. *Hatton* v. *Robinson*, 14 Pick. (Mass.) 416. See *Hager* v. *Shindler*, 29 Cal. 47, 64. Still, the mere fact of the relationship should be considered a communication. See 4 WIGMORE, EVIDENCE, § 2313. Hence, if the client's name is given in confidence, it is within the application of the rule. However, if the attorney purports to represent one of the parties at bar, since each party to a suit has a right to know with whom he is dealing, the public policy in favor of preserving the sacredness of communications between client and attorney is overborne. Hence the attorney must, upon examination, disclose the name of his client. *Levy* v. *Pope*, Moody & Mal. 410. *Cf. White* v. *State*, 86 Ala. 69, 5 So. 674. See 4 WIGMORE, EVIDENCE, § 2313. But where it is undisputed that the attorney neither represents a party, nor has previously represented a party concerning the case at bar, there seems little reason why it should be made an exception to the established rule of privilege. *Foote* v. *Hayne*, 1 C. & P. 545, 546; *In re Shawmut Mining Co.*, 94 N. Y. App. Div. 156, 87 N. Y. Supp. 1059. See *In re Malcolm*, 129 N. Y. App. Div. 226, 113 N. Y. Supp. 666, 668. But the weight of authority is *contra*. *Satterlee* v. *Bliss*, 36 Cal. 489; *Mobile & Montgomery Ry. Co.* v. *Yeates*, 67 Ala. 164; *United States* v. *Lee*, 107 Fed. 702.

BOOK REVIEWS

PROPERTY AND CONTRACT IN THEIR RELATIONS TO THE DISTRIBUTION OF WEALTH. Volumes I and II. By Richard T. Ely. New York: The Macmillan Company. 1914. pp. xlvii, 474; vii, 521.

Dr. Ely's work contains an enormous amount of material, the result of many years of study and reflection; it is the production of mature moderation, with a confident hope in the possibilities of collective social purpose. Property is to be regarded as derivative in the modern social state; it has no inherent indefeasible claims and is not antecedent to the society which produced and protects it. Its enjoyment is therefore subject throughout to such control as may be necessary for the accomplishment of social purposes. It may be taken or limited or used as the community finds necessity, subject only to so much tenderness as is possible. How much is in fact possible, what uses demand compensation, cannot be stated in advance. We have certain regulative principles, nothing more; we must not forget that men will build only when they know the foundation is secure. Every sudden revolutionary invasion of the individual's customary expectations shakes a little the whole of society, puts some doubt of the future into the hearts of the living. Custom, therefore, creates a genuine obligation on society to respect what it has created.

As to right of contract, the same applies, though we need not be so fearful of vested rights. Liberty has no significance except in society; it is the right to do what society finds best for itself and for the actor to let him do. Society may indeed go so far as to forbid one from contracting while under economic